

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, NOVEMBER 16, 2005**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of November 16, 2005, was called to order by Mayor Beckman at 6:00 p.m.

Present: Council Members – Hansen, Hitchcock, Johnson, Mounce, and Mayor Beckman

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Conference with Blair King (Acting Labor Negotiator) regarding International Brotherhood of Electrical Workers, pursuant to Government Code §54957.6
- b) Actual litigation: Government Code §54956.9(a); one case; *People of the State of California; and the City of Lodi, California v. M & P Investments, et al.*; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- c) Actual litigation: Government Code §54956.9(a); one case; *Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al.*, Superior Court, County of San Francisco, Case No. 323658
- d) Prospective sale or lease of real property located at 2 East Lodi Avenue, Lodi, CA (APN 045-310-01), known as Maple Square, owned by the City of Lodi, California; Government Code §54956.8

C-3 ADJOURN TO CLOSED SESSION

At 6:00 p.m., Mayor Beckman adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:10 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:14 p.m., Mayor Beckman reconvened the City Council meeting, and City Attorney Schwabauer announced that no reportable action was taken in closed session.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of November 16, 2005, was called to order by Mayor Beckman at 7:14 p.m.

Present: Council Members – Hansen, Hitchcock, Johnson, Mounce, and Mayor Beckman

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Major Frank Severs, Lodi Salvation Army.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Beckman.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 (a) Following introduction by Community Improvement Manager, Joseph Wood, Mayor Beckman presented the Community Improvement Award to Ben and Geraldine Osburn, owners of Ben's Appliance Lighthouse & Hearth, located at 1535 S. Cherokee Lane, for their improvements to the property.

D-2 Proclamations – None

D-3 Presentations – None

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Mounce, Beckman second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

E-1 Claims were approved in the amount of \$5,647,448.23.

E-2 The minutes of October 5, 2005 (Regular Meeting), October 5, 2005 (Special Joint Meeting w/Redevelopment Agency), and October 19, 2005 (Regular Meeting) were approved as written.

E-3 "Adopt resolution approving the City of Lodi annual investment policy and internal control guidelines" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**

E-4 Adopted Resolution No. 2005-238 approving specifications, authorizing bids for Blakely Pool Alarm, 1050 S. Stockton Street, and authorizing the City Manager to award or reject the contract up to an estimated \$16,000.

E-5 Adopted Resolution No. 2005-239 approving the purchase of mobile computing equipment acquired through the Code Enforcement Grant Program and appropriating funds in the amount of \$36,695.50.

E-6 Received for informational purposes Contract Change Order No. 1 – Lodi Avenue Overlay (Lower Sacramento Road to Ham Lane) / Pacific Avenue Extension (Walnut Street to Lodi Avenue) in the amount of \$41,742.

E-7 "Accept improvements under contract for Lighted Crosswalk System Project, Lockeford Street at Calaveras Street" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**

E-8 "Adopt resolution accepting improvements under contract for Streetlight Completion Project – Phase IV" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**

E-9 Adopted Resolution No. 2005-240 accepting improvements in Woodhaven Park, Unit No. 3, Tract 3187.

E-10 Adopted Resolution No. 2005-241 accepting \$100,000 from San Joaquin County via the State of California's Supplemental Law Enforcement Services Fund.

E-11 "Adopt resolution authorizing the City Manager to approve service agreement with the San Joaquin Partnership for economic development attraction and retention support (\$27,000)" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**

- E-12 Adopted Resolution No. 2005-242 supporting the establishment of the San Joaquin Valley Veterans Administration Regional Medical Clinic at French Camp.
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ACTION ON ITEMS REMOVED FROM THE CONSENT CALENDAR

- E-3 “Adopt resolution approving the City of Lodi annual investment policy and internal control guidelines”

Council Member Hansen mentioned that he recently attended a training session at which it was recommended that a reporting system be instituted that enables a clear understanding by Council Members of the financial barometers of the City’s General Fund and its utilities. He suggested that the Finance Director give quarterly presentations to Council.

Finance Director Krueger noted that staff has been giving quarterly verbal and written reports to Council regarding the utilities.

Council Member Mounce asked that this topic be brought back for further discussion at a Shirtsleeve Session. She preferred that benchmarking, financial analyses, and ratio numbers be used for all accounts.

Mayor Pro Tempore Hitchcock concurred with Ms. Mounce. She recalled having previously asked for financial ratios and data for statistical comparisons and was told there were no ratios for government agencies.

Mr. Krueger replied that there are ratios for utility/enterprise funds; however, standards for other governmental funds are not as clearly defined. There are ways to make comparative ratios analyses between other agencies that have similar operations. He noted that it is also helpful to see historical trends.

Council Members Johnson and Hansen asked that, rather than receiving the annual audit report (which is difficult to decipher and does not provide meaningful information), staff verbally present information on the financial condition of the City on a quarterly basis.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Johnson second, unanimously adopted Resolution No. 2005-243 approving the City of Lodi annual investment policy and internal control guidelines.

- E-7 “Accept improvements under contract for Lighted Crosswalk System Project, Lockeford Street at Calaveras Street”

Mayor Pro Tempore Hitchcock explained that she would vote against this item because she felt that \$50,000 crosswalks set a “terrible” precedent for future costs in the City.

MOTION:

Council Member Mounce made a motion, Beckman second, to accept the improvements under “Lighted Crosswalk System Project, Lockeford Street at Calaveras Street” contract.

DISCUSSION:

In answer to Council Member Johnson, City Attorney Schwabauer noted that many other cities are using lighted crosswalks in areas that they consider to be particularly vulnerable; consequently, “the standard” (for all cities) is being set by the use of this technology.

Council Member Hansen expressed his opinion that the cost for lighted crosswalks is money well spent for the safety of school children.

VOTE:

The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – Hitchcock

Absent: Council Members – None

- E-8 “Adopt resolution accepting improvements under contract for Streetlight Completion Project – Phase IV”

Mayor Pro Tempore Hitchcock explained that while she did not object to streetlights being installed, she felt that, as presented, it was a misuse of Capital Improvement Program funds and she would vote against the matter for that reason.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Hansen second, adopted Resolution No. 2005-244 accepting the improvements under “Streetlight Completion Project – Phase IV” contract. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – Hitchcock

Absent: Council Members – None

- E-11 “Adopt resolution authorizing the City Manager to approve service agreement with the San Joaquin Partnership for economic development attraction and retention support (\$27,000)”

At the request of Council Member Mounce, Council Member Johnson (who serves on the San Joaquin Partnership Board of Directors) reported that the Partnership is a public-private organization comprised of representatives from all cities in San Joaquin County, a county representative, and major employers in the County. Its objective is economic development, e.g. retaining and increasing jobs and bringing new businesses to the region. Mr. Johnson believed that the work of the Partnership benefited Lodi and he supported the service agreement.

Council Member Hansen suggested that a report be made by a representative of the Partnership regarding what specific work it has done for Lodi during the past year.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Beckman second, unanimously adopted Resolution No. 2005-245 authorizing the City Manager to approve service agreement with the San Joaquin Partnership in the amount of \$27,000 for economic development attraction and retention support.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Linda Martin, Co-Chair of the 2005 Parade of Lights, announced that the event would be held December 1. She reported that 74 float entries had been received to date for the event, which draws over 40,000 attendees.
- Carey Vanderkar, representing the Hospice of San Joaquin, invited everyone to attend the 13th Annual Tree of Lights ceremony on December 1.
- Jerry Glenn, Board Member of Lodi Adopt-A-Child, reported that 1,500 children are on the Christmas “wish list” this year and he encouraged Council and all members of the public to participate.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Johnson complimented the Lodi All Veterans Plaza Foundation for coordinating an excellent community Veterans Day program. He noted that the Foundation is selling Christmas tree ornaments as a fundraiser and asked if they could be sold at City Hall. Mr. Johnson recalled asking previously that the topic of pension benefits be scheduled for discussion at a Council meeting and mentioned again that he would like this to occur.
- Mayor Beckman concurred with Mr. Johnson's request to have the topic of pension benefits discussed at a future Council meeting.
- Council Member Mounce thanked the Lodi Police Partners volunteers for their work.
- Council Member Hansen commented on the following:
 - 1) One of the issues discussed in Sacramento during review of the Annual Legislative Report was telecommunication and the potential for broadband. He distributed information to Council on the topic, which included an article from Western Cities magazine.
 - 2) He urged all citizens to include emergency contacts in their cell phone address book under the acronym 'ICE' (In Case of Emergency) to aid public safety and medical personnel in instances where an individual is incapacitated.
 - 3) He reiterated his previous request to agendize the topic of whether or not to sell Lodi's Electric Utility and emphasized that he was strongly opposed to the idea.
- In response to Mr. Hansen's third comment, Council Member Johnson stated that he was opposed to placing the matter on a future agenda, as he felt it was not necessary to discuss it.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

None.

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Beckman called for the public hearing to consider appeal of the Planning Commission's decision to deny the request of Kirk Smith on behalf of Velvet Grill for a Use Permit (U-05-011) to allow a Type 41 Alcoholic Beverage Control license for on-sale beer and wine with a restaurant at 1421 South Ham Lane, Suite A.

Community Development Director Hatch reported that at the August 10 Planning Commission meeting, at which consideration of Use Permit U-05-011 was made, a resident near the Velvet Grill restaurant spoke about a history of noise and poor management at the establishment. The applicant was not present at that meeting to answer questions by the Commission, so the hearing was continued to September 14. On that date, staff presented police reports to the Commission, which indicated there were no recent problems at the restaurant. An assistant manager was present at the meeting; however, he was unprepared to answer questions posed by Commissioners who then denied the request based upon a lack of information to make a positive determination. Subsequently, Kirk Smith, representing the Velvet Grill, filed an appeal. The City Council is now asked to determine if the request to allow on-sale beer and wine at the restaurant is compatible with surrounding merchants and residential uses.

Hearing Opened to the Public

- Kirk Smith stated that he has operated three other Velvet Grill restaurants for 15 years, all of which have beer and wine licenses. The processes to obtain those licenses were not as involved as what has occurred in Lodi, and consequently he did not understand the need to personally appear at the Planning Commission public hearing(s). He reported that the Velvet Grill has been operating for 20 years in Lodi as a franchise. Mr. Smith took over the business in June 2004 and he stated that any issues related to noise or improper management took place prior to that time.

Mayor Beckman believed that his residence was within 200 to 300 yards of Velvet Grill and asked whether this presented a conflict of interest, to which City Attorney Schwabauer replied in the affirmative.

NOTE: Mayor Beckman recused himself and left the dais. Mayor Pro Tempore Hitchcock assumed the presiding officer position.

Council Member Mounce asked whether the Lodi Improvement Committee had objections to this request.

Mr. Hatch replied that the Committee had not considered the matter, as it received only ABC license applications that pertained to businesses located in the east side of Lodi, though in the future, the Committee will receive copies of all applications.

In answer to Mayor Pro Tempore Hitchcock, Mr. Smith reported that when he initially paid the \$1,000 fee to the City, staff had informed him it would be processed as soon as possible. He was out of town at the time of the September 14 Planning Commission meeting and was told that his assistant could attend in his place. He stated that persons 18 years of age and over can serve beer and wine. He has two employees at the Velvet Grill under the age of 18.

- Jonathan Miller stated that the concerns he voiced at the Planning Commission meeting were primarily related to incidences that occurred with previous owners of the business. He stated that there have been only minor noise related situations that have taken place since then, which were caused by employees of the establishment. He expressed concern about underage employees and questioned the amount of oversight that would take place with a restaurant that is not managed on site.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Johnson, Hansen second, adopted Resolution No. 2005-246 overruling the Planning Commission's decision and approving the request of Kirk Smith on behalf of the Velvet Grill for a Use Permit (U-05-011) to allow a Type 41 Alcoholic Beverage Control license for on-sale beer and wine with a restaurant at 1421 South Ham Lane, Suite A, subject to the conditions as previously recommended by staff to the Planning Commission. The motion carried by the following vote:

Ayes: Council Members – Hansen, Hitchcock, Johnson, and Mounce
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – Mayor Beckman

RECESS

At 8:35 p.m., Mayor Pro Tempore Hitchcock called for a recess, and the City Council meeting reconvened with Mayor Beckman presiding at 8:48 p.m.

City Attorney Schwabauer stated that Mayor Beckman is employed as the Director of Government Affairs for the Building Industry Association (BIA) of the Delta. The BIA, through its Executive Director, is on the commission that gave the San Joaquin Council of Governments advice and recommended that the BIA program for the Regional Transportation Impact Fee be approved. Mr. Schwabauer believed that a conflict of interest might exist and recommended that Mayor Beckman recuse himself from participation in Item K-1.

NOTE: At 8:49 p.m. Mayor Beckman recused himself and left the dais. Mayor Pro Tempore Hitchcock assumed the presiding officer position.

J. COMMUNICATIONS

J-1 Claims filed against the City of Lodi – None

J-2 The following postings/appointments were made:

NOTE: Mayor Beckman had not yet returned to the Council dais and was, therefore, absent during the discussion and action on the following matter.

a) The City Council, on motion of Council Member Hansen, Mounce second, made the following appointment by the vote shown below:

Ayes: Council Members – Hansen, Hitchcock, Johnson, and Mounce

Noes: Council Members – None

Absent: Council Members – Mayor Beckman

Lodi Arts Commission

Nancy Carey

Term to expire July 1, 2006

J-3 Miscellaneous – None

K. REGULAR CALENDAR

K-1 “Review Regional Transportation Impact Fee report and provide direction regarding future implementation”

NOTE: Due to a conflict of interest related to his employment at the Building Industry Association of the Delta, Mayor Beckman abstained from discussion and voting on this matter.

Andrew Chesley, Interim Executive Director of the San Joaquin Council of Governments (SJCOG), reported that in 1990 when the Measure K half-cent sales tax was passed by the voters it included a provision which said it was the intent of the ordinance that a Regional Transportation Impact Fee (RTIF) would be developed and brought forward for implementation during the life of the project. In 2004 the SJCOG Board agreed that an effort be put into place with a target of June 2005. A Policy Advisory Committee was formed to develop a recommendation. The firm of Pennino & Associates was hired to help facilitate the effort of building a consensus. A recommendation was brought to SJCOG in June and was adopted in October. The San Joaquin Partnership, Building Industry Association of the Delta, and the Business Council all supported the adoption of the RTIF fee program.

Phil Pennino reported that the Advisory Committee was established in January 2005 and was comprised of 28 representatives from the business community, developers, elected officials, and the environmental community. The Committee met for a period of six months. He explained that 75% of the fees collected in Lodi would remain in the City for its regional transportation eligible projects. Of the remaining 25%, 10% would go to the County for use on countywide transportation projects and 15% would go to SJCOG for regional projects (i.e. 10% to highways and 5% to transit projects). Eligible projects in the Lodi area include: State Route Highway 12 and the interchange on Kettleman Lane, reconstruction of the interchange on State Route 99 and Harney Lane, and Harney Lane from two to four lanes from Highway 99 to Lower Sacramento Road.

In reply to Council Member Hansen, Mr. Pennino confirmed that the Council could change its project priorities or add to the projects.

Mike Swearingen, SJCOG Senior Regional Planner, explained that the operating agreement was the binding document between all the participating agencies that set the rules for universal implementation of the program throughout the region. Key elements include the means to address any legal challenges, accountability, the need for an independent audit,

semi-annual and annual reports, and distribution of fees collected between the participating agencies. The RTIF ordinance authorizes the uniform framework and overarching procedures for the program including fee rate calculation, collection, administration, expenditure of the fees, accounting, and the need to reconcile the RTIF program with any other existing impact fee programs implemented by the City. The RTIF technical report provides the necessary documentation and nexus analysis to support the adoption of the RTIF. The report includes the means to establish a legal, defensible, rational nexus based on the project costs that are attributable to new development. There are 120 eligible RTIF projects in the program and a defined regional transportation network.

Council Member Johnson asked if there was an opportunity to leverage the funds, rather than waiting for them to accumulate.

Mr. Chesley responded in the affirmative and explained that the SJCOG Board adopted policies that allow Measure K dollars to be loaned for transportation projects. There is an opportunity to leverage and borrow, if necessary, to move projects ahead of when they would normally occur.

Council Member Johnson mentioned that the San Joaquin Partnership has expressed concern that the area's advantage in attracting businesses decreases as fees are increased. He asked what would happen to the RTIF money if Measure K was not renewed.

Mr. Chesley replied that the RTIF program is not contingent upon Measure K being renewed; however, the ability to deliver the projects is greatly enhanced by the renewal of the Measure K program. He noted that SJCOG has existed since 1967 and Measure K was passed in 1990. The SJCOG is responsible for allocating \$100 million each year in transportation funding and Measure K accounts for \$42 million of that amount.

Public Works Director Prima noted that the fee would be increased automatically each year according to the Engineering News Record index and there is a provision for administrative costs.

PUBLIC COMMENTS:

- Ron Addington, President of the Business Council, spoke in support of the RTIF program and mentioned that the business community will need to raise \$1 million toward the campaign to renew Measure K.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Johnson second, directed staff to pursue implementation of the RTIF by bringing back an ordinance for consideration, introduction, and adoption, and, with adoption, the RTIF operating agreement and fee resolution. The motion carried by the following vote:

Ayes: Council Members – Hansen, Hitchcock, Johnson, and Mounce

Noes: Council Members – None

Absent: Council Members – None

Abstain: Council Members – Mayor Beckman

NOTE: Mayor Beckman resumed his position as presiding officer.

K-2 “Adopt resolution establishing Market Cost Adjustments to be effective December 2, 2005”

Interim Electric Utility Director Dockham noted that the recommendations for Market Cost Adjustments (MCA) that were made originally have been modified over time as a result of community input and Council deliberation. He recalled that on October 18 the financial condition of the Electric Utility was reviewed and it was pointed out that the power costs this year had risen by 29% over last year, due in large part to the hurricanes in the natural

gas producing regions of the United States. The Utility had been operating in a deficit condition since fiscal year 2003. Expenses were exceeding revenue by \$9.2 million and, if a MCA was not done, the Utility would completely deplete its balances this year. Each month of delay in implementing a MCA would result in an additional \$800,000 loss and equate to a 1.2% higher electric rate increase to customers. On October 19, large industrial customers complained about the exorbitant amount of the increase and short notice given to them. It was emphasized that the electric rate increase would significantly and adversely affect their planning and budgeting processes. Council then expressed its preference that staff's recommended MCA to industrial customers be reduced by 50%. As part of staff's overall recommendation, it was also suggested that there be some rate decreases, to which Council expressed its preference that the decreases be eliminated. On November 2, Council adopted Ordinance 1765. At that time, staff noted that the 50% reduction for industrial (I-1 class) customers would result in a \$1.5 million shortfall from the goal that was attempted to be achieved. Council expressed its preference that \$500,000 (of the shortfall) be collected from the 71% of residential (EA class) customers that would otherwise have not received a rate increase. This resulted in tonight's proposal that 87% of the customers will get a 9% increase, 7% will receive a 10% to 20% increase, and a small number of customers will see a 25% or higher increase. The remaining \$1 million shortage is to be collected by identifying other savings throughout the City or other revenue sources and presented to Council as part of the mid-year budget adjustment process. He noted that a "blue sheet" was distributed of the proposed resolution and MCA schedule (filed). In addition, a MCA schedule with a reduction to mobile home rate increases from \$31 per pad to an average of \$3.18 per month was distributed for Council's consideration (filed). Mr. Dockham stated that 19,000 residential customers currently receive an average monthly electric bill of \$85 and after the proposed MCA is applied it will increase to \$98. There will be no further MCA for the industrial class customers through the end of this fiscal year. Staff has begun working on a long-term financial plan and cost of service study. The goal is to set the base rate in line with what actual costs are. Staff expects there will be little or no increases as a result of the subsequent "truing up" of electric rates. Historical policies that have been imbedded in the rate design will be evaluated and an updated rate design will be brought forward for Council's consideration at a later time.

Council Member Hansen was in support of the recommendation to reduce mobile home increases from \$31 per pad to an average of \$3.18 per month. He mentioned that some of the large businesses are paying for a study, which will identify the value of jobs in the Lodi community. He felt this issue was a policy matter for Council to consider in terms of future rates or a credit. He stated that the Council does value large businesses and recognizes the overall contribution they bring to the City. He mentioned that the Lodi Electric Utility is very reliable, which is the most important factor to its customers.

Mayor Pro Tempore Hitchcock pointed out that the recommended action tonight still leaves a \$1 million shortfall. She was willing to give industrial customers a year to work on planning and budgeting for their electric costs; however, she was opposed to a continued subsidy to the extent these businesses have been receiving, as she felt the burden was too great on residential customers. She suggested that as much as possible of the \$1 million shortfall be taken from the service area of Electric Utility.

Council Member Johnson warned that the City cannot afford to lose too many jobs.

PUBLIC COMMENTS:

- Bill Crow stated that The Record newspaper reported that if Lodi had waited two more weeks the electric rates would have decreased from 10 cents to 7 cents a kilowatt hour, which would have saved several million dollars. He suggested Council take 30% from the salaries of the City Manager and Interim Electric Utility Director for having made the recommendation to purchase power when they did. He asked what happened to the \$23 million in surplus money that the Utility once had.

Council Member Hansen explained that the daily electric rate is different from the long-term rate and the newspaper had made an unfair comparison. In reference to the \$23 million surplus, Mr. Hansen reported that it was used to pay for increases in Electric Utility costs.

- Pat Patrick, President of the Chamber of Commerce, stated that large industrial customers are concerned that something be done by the City to ensure this situation does not reoccur, i.e. large unexpected rate increases with little warning. In addition, they would like to know whether a policy change has, or will take place, in regard to economic/electric rate incentives for businesses in the community.

Mayor Beckman explained that he has consistently voted against staff's recommended rate proposals because he is opposed to the many different tiered structure system that has been designed and he would vote against the matter tonight for the same reason.

Council Member Mounce voiced her opinion that there should be additional incentives for businesses and low income residents.

MOTION:

Mayor Pro Tempore Hitchcock made a motion, Hansen second, to adopt Resolution No. 2005-247 establishing Market Cost Adjustments, as amended, to be effective December 2, 2005.

DISCUSSION:

In answer to Council Member Hansen, Mayor Beckman further explained that, in his opinion, there is a simpler and fairer way of charging electric rates than the 36 different tiers now proposed. He felt that to vote in favor of this would be to perpetuate an unfair rate system. He noted that the low-income discount programs would be placed on the November 2006 ballot for voters' consideration.

VOTE:

The motion carried by the following vote:

Ayes: Council Members – Hansen, Hitchcock, and Johnson

Noes: Council Members – Mounce and Mayor Beckman

Absent: Council Members – None

K-3 "Review conceptual Water Meter Retrofit Program" was ***pulled from the agenda.***

K-4 "Approve "Will Serve" letter for potential Northern California Power Agency power plant project at White Slough Water Pollution Control Facility"

Bryan Bertacchi, Assistant General Manager of the Northern California Power Agency (NCPA), reported that 90% of the energy NCPA produces is from renewable resources. Larger plants use less fuel, are more environmentally friendly, and are more cost efficient. It is estimated that the cost savings on a larger plant is \$10 a megawatt hour. A gas fired resource is always reliable. NCPA proposes to add a one by one natural gas fired combined cycle plant, which requires 26% less fuel to generate each kilowatt of energy. It is planned to be on line by February 2009. The total cost of the plant is estimated at \$212 million, which includes 5% contingency, all development costs, and the purchase of admission reduction credits.

Council Member Hansen noted that the cost to Lodi would be \$233,000 for Phase 2A and \$1 million for Phase 2B.

Mr. Bertacchi reported that NCPA is ready to move forward on a \$2.6 million application process to the California Energy Commission. The Phase 1 fatal flaw analysis has been completed. Phase 2B requires \$13 million to fully acquire the emission reduction credits for the project and begin the detailed engineering required to be able to start construction

on schedule. The stack height for this type of project is 130 feet. Small easements or additional land lease near the power plant site may be needed to get to the western transmission line. A temporary "lay down" area of ten acres will be needed during the two-year construction period. It is anticipated that 350 construction jobs will be created for the two-year project and nine full-time permanent positions will be created. Lodi owns 39.5% of the existing facility, which is 50 megawatts. The new plant will be 255 megawatts. Labor costs for the existing facility are \$2.5 million and Mr. Bertacchi estimated that the proposed plant could reduce labor costs by 17%. He stated that, with this project, Lodi would either have reduced expenses or increased revenue of \$1 million annually. There is also a potential of "behind the meter" energy savings worth \$2 million a year.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, unanimously approved the "Will Serve" letter for potential Northern California Power Agency power plant project at White Slough Water Pollution Control Facility.

- K-5 "Review proposed wastewater capacity fee, provide direction, and set public hearing for January 4, 2006, to consider adoption of the fee" was ***pulled from the agenda.***

- K-6 "Approve expenses incurred by outside counsel relative to the Environmental Abatement Program litigation (\$55,420.03)"

City Attorney Schwabauer reviewed outside counsel expenses as outlined in the staff report (filed).

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Beckman second, unanimously approved expenses incurred by outside counsel relative to the Environmental Abatement Program litigation, in the amount of \$55,420.03, as detailed below:

Matter No.	Invoice No.	Date	Description	Total Amount
8002	90867	09/30/05	People v M&P Investments	\$14,714.88
				(1,306.50)
8003	90871	08/31/05	Hartford Insurance Coverage Litigation	\$ 9,378.54
8006	90869	08/31/05	Fireman's Fund/Unigard Appeal	\$12,922.18
8008	90868	08/31/05	Envision Law Group	<u>\$19,710.93</u>
				\$55,420.03

L. ORDINANCES

- L-1 Following reading of the title of Ordinance No. 1766 entitled, "An Ordinance of the Lodi City Council Amending the Official District Map of the City of Lodi and Thereby Rezoning 1380 Westgate Drive (APN 027-420-09) from R-2, Residential Single Family, to PD(37), Planned Development Number 37, for Luca Place," having been introduced at a regular meeting of the Lodi City Council held November 2, 2005, the City Council, on motion of Council Member Mounce, Beckman second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Hansen, Hitchcock, Johnson, Mounce, and
Mayor Beckman

Noes: Council Members – None

Absent: Council Members – None

Abstain: Council Members – None

Continued November 16, 2005

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 11:07 p.m.

ATTEST:

Susan J. Blackston
City Clerk